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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,213	02/24/2004	Willy Poppe	POPP3001/JEK	8412
23364	7590	03/08/2006	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			SCHATZ, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,213

Applicant(s)

POPPE, WILLY

Examiner

Christopher T. Schatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poppe (U.S. Patent 4,194,255) in view of Contreras (U.S. Patent 5,797,154), Giori et al. (U.S. Patent 6,684,433, Kuczynski et al. (U.S. Patent 5,989,699), and Shalon et al. (U.S. Patent 6,309,891).

Regarding claim 1, Poppe teaches a method for manufacturing a tubular, resilient body wherein the method consists essentially of providing slits in a foam block of well determined dimensions, bending two opposite ends of the block (foam strip) towards each other; fixing both ends in order to form the aimed tubular, resilient body (Column 3, lines 8-62, Figures 1 and 2).

Poppe is silent towards a step of cutting the block (strip) out of a foam layer that has slits. Contreras teaches cutting a pillow structure from a larger slab of cushioning material (foam layer) (Column 3, lines 14-33). One skilled in the art would have readily appreciated cutting the block out of the foam layer or having the block already prepared to the correct dimensions as they are both conventional ways to obtain the foam strip required to make the tubular, resilient bodies and are obvious alternate expedients. One skilled in the art would have also readily

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appreciated that the slits could be provided in the foam layer prior to cutting or they could be provided in the strip (block), after being cut to the desired dimensions, since they are alternate expedients obvious over one another and both result in the same material for the tubular, resilient body.

Poppe also teaches that the tubular body is made of synthetic foam or the like (Column 1, lines 57-61), but is silent towards the synthetic foam being viscoelastic foam. Giori et al. teaches that it is known in the prior art that viscoelastic foam is used in mattresses and support pads (Column 1, lines 20-26). Contreras also teaches using viscoelastic foam in pillows (Column 3, lines 18-19). One skilled in the art would have readily appreciated that one type of synthetic foam that could be used to make the tubular bodies is viscoelastic foam, because it provides improved comfort and support and exhibits a slow recovery time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use viscoelastic foam and to cut the strip (block) from a foam layer with slits in the method of Poppe as suggested by Giori et al. and Contreras, respectively.

Poppe is silent as to a step of compressing the foam such that gas pressure within the cells rises to burst at least a part of the cells. Kuczynski et al. discloses a method of producing a resilient foam material to be used as a cushioning material, and further discloses that it is well known in the art to compress a foam such that cells in said foam are opened (column 8, lines 60-65). While the reference does not explicitly recite "gas pressure within the cells rises to burst the cells," examiner asserts that one of ordinary skill in the art would have readily understood that a gas pressure increase in the cells would occur during the compression process. Furthermore, since the reference discloses that the compression process produces an open cell foam structure,

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one of ordinary skill in the art would have recognized that the cells burst as a result of an increase in gas pressure. Additionally, Shalon et al. discloses that it is advantageous to impart an open-cell structure to an elastic foam spring (column 7, lines 39-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to compress the foam spring of Poppe such that a gas pressure within the cells rises to burst the cells to produce an open cell foam structure as is well known in the art and taught by Kuczynski et al. and Shalon et al.

Poppe et al. meets the limitations of claims 3-5 for the reasons discussed in the final office action dated October 21, 2005.

Response to Arguments

Applicant's arguments with respect to claims 1 and 3-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

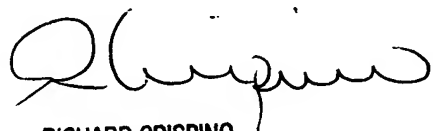
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher T. Schatz



RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
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